

INITIATIVE 686

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 686 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to prohibiting mandatory child support for
2 postsecondary education of adult children; amending RCW 26.09.170,
3 26.09.225, 26.18.210, 26.19.035, and 26.19.075; adding a new section to
4 chapter 26.09 RCW; creating a new section; and repealing RCW 26.19.090.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The people of the state of Washington
7 recognize the need and value of postsecondary educational support for
8 children of both married and divorced families. The people encourage
9 all parents to assist their children, both financially and emotionally,
10 with their postsecondary education. The people declare that the
11 determination of a child's best interest with regard to postsecondary
12 educational support shall be the sole and exclusive prerogative of that
13 child's parents and, further, that it is the inalienable right of
14 parents to structure the kind, amount, and timing of such support,
15 based upon the parents' singular and superior knowledge of their
16 child's individuality, in a way that maximizes the child's individual
17 potential. The people hereby expressly disapprove of case law that
18 compels divorced parents to pay for their adult children's college

1 education as contrary to sound public policy with regard to
2 postsecondary educational support.

3 Therefore, since married parents cannot be compelled to pay for
4 their adult children's college education, the people find that ordering
5 divorced parents to financially assist toward postsecondary education
6 is unduly burdensome and infringes on the right of the divorced parent
7 to choose the level of assistance they would otherwise provide if they
8 remained married.

9 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.09 RCW
10 to read as follows:

11 A court shall not order either or both parents to pay support for
12 postsecondary education of a child over eighteen years of age.

13 **Sec. 3.** RCW 26.09.170 and 1997 c 58 s 910 are each amended to read
14 as follows:

15 (1) Except as otherwise provided in subsection (7) of RCW
16 26.09.070, the provisions of any decree respecting maintenance or
17 support may be modified: (a) Only as to installments accruing
18 subsequent to the petition for modification or motion for adjustment
19 except motions to compel court-ordered adjustments, which shall be
20 effective as of the first date specified in the decree for implementing
21 the adjustment; and, (b) except as otherwise provided in subsections
22 (4), (5), (8), and (9) of this section, only upon a showing of a
23 substantial change of circumstances. The provisions as to property
24 disposition may not be revoked or modified, unless the court finds the
25 existence of conditions that justify the reopening of a judgment under
26 the laws of this state.

27 (2) Unless otherwise agreed in writing or expressly provided in the
28 decree the obligation to pay future maintenance is terminated upon the
29 death of either party or the remarriage of the party receiving
30 maintenance.

31 (3) Unless otherwise agreed in writing or expressly provided in the
32 decree, provisions for the support of a child are terminated by
33 emancipation of the child or by the death of the parent obligated to
34 support the child.

35 (4) An order of child support may be modified one year or more
36 after it has been entered without showing a substantial change of
37 circumstances:

1 (a) If the order in practice works a severe economic hardship on
2 either party or the child;

3 (b) If a party requests an adjustment in an order for child support
4 which was based on guidelines which determined the amount of support
5 according to the child's age, and the child is no longer in the age
6 category on which the current support amount was based;

7 (c) If a child is still in high school, upon a finding that there
8 is a need to extend support beyond the eighteenth birthday to complete
9 high school; or

10 (d) To add an automatic adjustment of support provision consistent
11 with RCW 26.09.100.

12 (5) An order or decree entered prior to June 7, 1984, may be
13 modified without showing a substantial change of circumstances if the
14 requested modification is to:

15 (a) Require health insurance coverage for a child named therein; or

16 (b) Modify an existing order for health insurance coverage.

17 (6) An obligor's voluntary unemployment or voluntary
18 underemployment, by itself, is not a substantial change of
19 circumstances.

20 (7) The department of social and health services may file an action
21 to modify an order of child support if public assistance money is being
22 paid to or for the benefit of the child and the child support order is
23 twenty-five percent or more below the appropriate child support amount
24 set forth in the standard calculation as defined in RCW 26.19.011 and
25 reasons for the deviation are not set forth in the findings of fact or
26 order. The determination of twenty-five percent or more shall be based
27 on the current income of the parties and the department shall not be
28 required to show a substantial change of circumstances if the reasons
29 for the deviations were not set forth in the findings of fact or order.

30 (8)(a) All child support decrees may be adjusted once every twenty-
31 four months based upon changes in the income of the parents without a
32 showing of substantially changed circumstances. Either party may
33 initiate the adjustment by filing a motion and child support
34 worksheets.

35 (b) A party may petition for modification in cases of substantially
36 changed circumstances under subsection (1) of this section at any time.
37 However, if relief is granted under subsection (1) of this section,
38 twenty-four months must pass before a motion for an adjustment under
39 (a) of this subsection may be filed.

1 (c) If, pursuant to (a) of this subsection or subsection (9) of
2 this section, the court adjusts or modifies a child support obligation
3 by more than thirty percent and the change would cause significant
4 hardship, the court may implement the change in two equal increments,
5 one at the time of the entry of the order and the second six months
6 from the entry of the order. Twenty-four months must pass following
7 the second change before a motion for an adjustment under (a) of this
8 subsection may be filed.

9 (d) A parent who is receiving transfer payments who receives a wage
10 or salary increase may not bring a modification action pursuant to
11 subsection (1) of this section alleging that increase constitutes a
12 substantial change of circumstances.

13 (e) The department of social and health services may file an action
14 at any time to modify an order of child support in cases of
15 substantially changed circumstances if public assistance money is being
16 paid to or for the benefit of the child. The determination of the
17 existence of substantially changed circumstances by the department that
18 lead to the filing of an action to modify the order of child support is
19 not binding upon the court.

20 (9) An order of child support may be adjusted twenty-four months
21 from the date of the entry of the decree or the last adjustment or
22 modification, whichever is later, based upon changes in the economic
23 table or standards in chapter 26.19 RCW.

24 (10) A party may petition for modification of an existing order of
25 postsecondary child support based on the repeal of RCW 26.19.090 under
26 chapter . . . , Laws of 1998 (this act) without showing a substantial
27 change of circumstances. In the case of an existing order where the
28 son or daughter is currently enrolled in an institution providing
29 postsecondary education, the modification order shall be delayed one
30 year or until the enrollment ends, whichever occurs first, unless the
31 petitioner makes a showing of a substantial change of circumstances.

32 **Sec. 4.** RCW 26.09.225 and 1991 sp.s. c 28 s 3 are each amended to
33 read as follows:

34 (1) Each parent shall have full and equal access to the education
35 and health care records of the child absent a court order to the
36 contrary. Neither parent may veto the access requested by the other
37 parent.

(2) Educational records are limited to academic, attendance, and disciplinary records of public and private schools in all grades kindergarten through twelve and any form of alternative school for all periods for which child support is paid or the child is the dependent in fact of the parent requesting access to the records.

(3) Educational records of postsecondary educational institutions are limited to enrollment and academic records necessary to determine, establish, or continue support ordered pursuant to RCW 26.19.090 before the effective date of this section.

Sec. 5. RCW 26.18.210 and 1990 1st ex.s. c 2 s 22 are each amended to read as follows:

(1) The administrator for the courts shall develop a child support order summary report form to provide for the reporting of summary information in every case in which a child support order is entered or modified either judicially or administratively. The administrator for the courts shall attempt to the greatest extent possible to make the form simple and understandable by the parties. The form shall indicate the following:

- (a) The county in which the order was entered and the cause number;
- (b) Whether it was a judicial or administrative order;
- (c) Whether the order is an original order or from a modification;
- (d) The number of children of the parties and the children's ages;
- (e) The combined monthly net income of parties;
- (f) The monthly net income of the father as determined by the court;
- (g) The monthly net income of the mother as determined by the court;
- (h) The basic child support obligation for each child as determined from the economic table;
- (i) Whether or not the court deviated from the child support for each child;
- (j) The reason or reasons stated by the court for the deviation;
- (k) The amount of child support after the deviation;
- (l) Any amount awarded for day care;
- (m) Any other extraordinary amounts in the order;
- (n) ~~((Any amount ordered for postsecondary education;~~
- ~~(o)))~~ The total amount of support ordered;

1 (~~((p))~~) (o) In the case of a modification, the amount of support in
2 the previous order;
3 (~~((q))~~) (p) If the change in support was in excess of thirty
4 percent, whether the change was phased in;
5 (~~((r))~~) (q) The amount of the transfer payment ordered;
6 (~~((s))~~) (r) Which parent was ordered to make the transfer payment;
7 and
8 (~~((t))~~) (s) The date of the entry of the order.
9 (2) The administrator for the courts shall make the form available
10 to the parties.

11 **Sec. 6.** RCW 26.19.035 and 1992 c 229 s 6 are each amended to read
12 as follows:

13 (1) **Application of the child support schedule.** The child support
14 schedule shall be applied:

15 (a) In each county of the state;

16 (b) In judicial and administrative proceedings under this title or
17 Title 13 or 74 RCW;

18 (c) In all proceedings in which child support is determined or
19 modified;

20 (d) In setting temporary and permanent support;

21 (e) In automatic modification provisions or decrees entered
22 pursuant to RCW 26.09.100; and

23 (f) In addition to proceedings in which child support is determined
24 for minors, to adult children who are dependent on their parents and
25 for whom support is ordered pursuant to RCW 26.09.100. A court shall
26 not order either or both parents to pay support for postsecondary
27 education of a child over eighteen years of age.

28 The provisions of this chapter for determining child support and
29 reasons for deviation from the standard calculation shall be applied in
30 the same manner by the court, presiding officers, and reviewing
31 officers.

32 (2) **Written findings of fact supported by the evidence.** An order
33 for child support shall be supported by written findings of fact upon
34 which the support determination is based and shall include reasons for
35 any deviation from the standard calculation and reasons for denial of
36 a party's request for deviation from the standard calculation. The
37 court shall enter written findings of fact in all cases whether or not
38 the court: (a) Sets the support at the presumptive amount, for

1 combined monthly net incomes below five thousand dollars; (b) sets the
2 support at an advisory amount, for combined monthly net incomes between
3 five thousand and seven thousand dollars; or (c) deviates from the
4 presumptive or advisory amounts.

5 (3) **Completion of worksheets.** Worksheets in the form developed by
6 the office of the administrator for the courts shall be completed under
7 penalty of perjury and filed in every proceeding in which child support
8 is determined. The court shall not accept incomplete worksheets or
9 worksheets that vary from the worksheets developed by the office of the
10 administrator for the courts.

11 (4) **Court review of the worksheets and order.** The court shall
12 review the worksheets and the order setting support for the adequacy of
13 the reasons set forth for any deviation or denial of any request for
14 deviation and for the adequacy of the amount of support ordered. Each
15 order shall state the amount of child support calculated using the
16 standard calculation and the amount of child support actually ordered.
17 Worksheets shall be attached to the decree or order or if filed
18 separately shall be initialed or signed by the judge and filed with the
19 order.

20 **Sec. 7.** RCW 26.19.075 and 1997 c 59 s 5 are each amended to read
21 as follows:

22 (1) Reasons for deviation from the standard calculation include but
23 are not limited to the following:

24 (a) **Sources of income and tax planning.** The court may deviate from
25 the standard calculation after consideration of the following:

26 (i) Income of a new spouse if the parent who is married to the new
27 spouse is asking for a deviation based on any other reason. Income of
28 a new spouse is not, by itself, a sufficient reason for deviation;

29 (ii) Income of other adults in the household if the parent who is
30 living with the other adult is asking for a deviation based on any
31 other reason. Income of the other adults in the household is not, by
32 itself, a sufficient reason for deviation;

33 (iii) Child support actually received from other relationships;

34 (iv) Gifts;

35 (v) Prizes;

36 (vi) Possession of wealth, including but not limited to savings,
37 investments, real estate holdings and business interests, vehicles,
38 boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or
(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

- (i) Extraordinary debt not voluntarily incurred;
- (ii) A significant disparity in the living costs of the parents due to conditions beyond their control;
- (iii) Special needs of disabled children;
- (iv) Special medical, educational, or psychological needs of the children. Special educational needs shall not be construed to include postsecondary education of a child; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

1 (e) **Children from other relationships.** The court may deviate from
2 the standard calculation when either or both of the parents before the
3 court have children from other relationships to whom the parent owes a
4 duty of support.

5 (i) The child support schedule shall be applied to the mother,
6 father, and children of the family before the court to determine the
7 presumptive amount of support.

8 (ii) Children from other relationships shall not be counted in the
9 number of children for purposes of determining the basic support
10 obligation and the standard calculation.

11 (iii) When considering a deviation from the standard calculation
12 for children from other relationships, the court may consider only
13 other children to whom the parent owes a duty of support. The court
14 may consider court-ordered payments of child support for children from
15 other relationships only to the extent that the support is actually
16 paid.

17 (iv) When the court has determined that either or both parents have
18 children from other relationships, deviations under this section shall
19 be based on consideration of the total circumstances of both
20 households. All child support obligations paid, received, and owed for
21 all children shall be disclosed and considered.

22 (2) All income and resources of the parties before the court, new
23 spouses, and other adults in the households shall be disclosed and
24 considered as provided in this section. The presumptive amount of
25 support shall be determined according to the child support schedule.
26 Unless specific reasons for deviation are set forth in the written
27 findings of fact and are supported by the evidence, the court shall
28 order each parent to pay the amount of support determined by using the
29 standard calculation.

30 (3) The court shall enter findings that specify reasons for any
31 deviation or any denial of a party's request for any deviation from the
32 standard calculation made by the court. The court shall not consider
33 reasons for deviation until the court determines the standard
34 calculation for each parent.

35 (4) When reasons exist for deviation, the court shall exercise
36 discretion in considering the extent to which the factors would affect
37 the support obligation.

38 (5) Agreement of the parties is not by itself adequate reason for
39 any deviations from the standard calculation.

1 NEW SECTION. **Sec. 8.** RCW 26.19.090 and 1991 sp.s. c 28 s 7 & 1990
2 1st ex.s. c 2 s 9 are each repealed.

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